



City of Mankato

**Economic
Development
Authority**

SCDP

**Commercial
Rehabilitation
Program
Guidelines
And
Policies**

2002



2002 SCDP Commercial Rehabilitation Program City of Mankato Guidelines & Policies

SECTION A

PROGRAM OBJECTIVES

The Mankato Commercial Rehabilitation Program is undertaken for the purposes of:

1. Providing financial assistance for local businesses to rehabilitate their property, their neighborhoods, and the community as a whole.
2. Increasing the financial involvement of public agencies and private lending institutions in the improvement of the commercial building stock in the city.
3. Making a visible and substantial impact upon building conditions, community appearance, and overall quality of life in the area.

SECTION B

PROGRAM DEFINITIONS

B.1 — Administrator.

"Administrators" of the Program shall be the Economic Development Authority staff of the Housing and Economic Development Division of the City of Mankato. It shall be the responsibility of the Administrator to coordinate all aspects of the Program.

B.2 — Applicant.

"Applicant" means any business seeking to obtain assistance under the terms of this Program..

B.3 — Financing: Deferred Loans.

A "Deferred Loan" is financing which carries no interest and no periodic payments for 10 years from the date of the Repayment Agreement. The "Deferred Loan" is then repaid in 120 monthly installments, but which is secured by a Repayment Agreement and lien against the property. A Deferred Loan must be repaid in full in the event the property which is rehabilitated is sold, transferred, or conveyed, within twenty-five (25) years from the date of the Repayment Agreement. Under extraordinary circumstances, the terms and conditions of repayment of a Deferred Loan may be modified, or restructured.

B.4 — Financing: Security Position.

The Mankato Commercial Rehabilitation Program will not require a first-position security interest for Deferred Loans. Upon request from a bank or other lender, the Program may subordinate its security interest to another party, at the discretion of the City.

B.5 — Rehabilitation Advisor.

The "Rehabilitation Advisor" for the Program shall be a designated employee of the Administrator. It shall be the responsibility of the Rehabilitation Advisor to provide technical expertise relating to building inspections, construction quality, code compliance, and work write-ups.

B.6 — Principal Place of Business.

"Principal Place of Business" means that building which the applicant uses year-round for the operation of his/her business. The building must be the primary structure which houses the majority of the business's sales stock, office space, or manufacturing equipment and which provides the central focus of the business's day-to-day operation.

B.7 — Building Standards.

The "Mankato Rehabilitation Building Standards" used for the Mankato Commercial Rehabilitation Program shall be followed in conducting inspections, determining deficiencies, and evaluating the quality of workmanship on a rehabilitation project. These Standards incorporate the Example Minnesota Standard and the BOCA Property Maintenance Code, the Uniform Federal Accessibility Standards, ADA Accessibility Guidelines, and Minnesota Energy Efficiency Standards shall also be used as appropriate to a rehabilitation project. In addition the "Urban Design Standards" adopted by the City shall also be applied in determining the scope of work of all project.

SECTION C

GENERAL ELIGIBILITY FOR ASSISTANCE

C.1 — Eligibility Qualifications.

To be eligible for commercial rehabilitation assistance, the applicant must meet the eligibility qualifications set forth. All buildings assisted by commercial rehabilitation must meet the Small Cities Development Grant program's federal objective of "prevention or elimination of slums and blight."

C.2 — Status & Location of Applicant.

To be eligible for commercial rehabilitation assistance the applicant must:

1. Be owner/occupant or renter/occupant of a building used for commercial purposes.
2. The building must be the applicant's principal place of business, as defined in Section B.6.
3. Be located in that designated Slum & Blight Target Area within the city limits of Mankato, as identified in the City's "Determination of Blighting Conditions" resolution and any subsequent revisions thereto. This area is identified in Map A, which is attached to and incorporated into these Guidelines and Policies.

C.3 — Floodplain.

1. The Administrator shall determine the location of each applicant's commercial building in relation to any floodplains as identified by a Flood Insurance Rate Map (FIRM) and, should a building be located in such a floodplain, take such actions as are required by Small Cities Development Program regulations.

C.4 — Historical Society Review

1. All properties that were built before 1950 will be reviewed by the Minnesota Historical Society to determine if the structure is historically significant before any rehabilitation occurs.
2. After the initial property inspection has been completed by the Housing Rehabilitation Advisor, the following will be submitted to the Minnesota Historical Society Officer (SHPO).
 - a. A summary of the work to be done at the property;
 - b. Photographs of the structure;
 - c. Property description;
 - d. Any other information requested by the SHPO.
3. Any changes in the scope of the project requested by the SHPO will be initiated.

SECTION D

EQUAL OPPORTUNITY

It is the policy of this Commercial Rehabilitation Program to work affirmatively to ensure that all persons, regardless of race, color, creed, national origin, sex, religion, marital status, age, handicap, or reliance on public assistance, will be treated fairly and equally in their participation in the Program.

The City will be responsible for the promotion of the Program at the local level and shall exercise care in avoiding promotion methods that may exclude potentially eligible applicants. Access to program information and materials will not be denied to any person for any reason including race, color, creed, national origin, sex, religion, marital status, age, handicap, or reliance on public assistance. Affirmative promotion shall include efforts to reach those persons who traditionally may not have participated in similar programs.

In order to develop or maintain an effective affirmative promotion effort, the City shall review its promotion methods from time to time during the course of the Program to determine how the methods used can be improved to increase the participation of persons who otherwise might not apply for assistance under the Program, such as single female heads of households, racial minorities, or persons with handicaps or disabilities.

The City shall encourage participation by women-and minority-business enterprise (W/MBE) parties in the Commercial Rehabilitation Program. W/MBE contractors, materials suppliers, vendors, and others engaged in rehab-related enterprises shall be encouraged to seek inclusion in the rehab program.

SECTION E

DATA PRIVACY

Information on program applicants (including, but not limited to, names, credit reports, financial statements, income calculations and asset information) is private data on individuals which must be administered in accordance with the Minnesota Government Data Practices Act. Applicants shall be provided with proper written notice as specified under the Act. Personal financial data needed to evaluate the applicants ability to access other funds will be evaluated by the Administrator and upon approval of the project and securing of the private financing, the personal financial data will be forwarded in its entirety to the private lender for retainage in their loan files.

Solely for the purpose of administering the Program, information may be made available to the staffs of the following agencies or organizations: the Mankato EDA, the Economic Development Division of the City of Mankato, banks and lending institutions participating as Financing Sources, the Minnesota Department of Trade & Economic Development, and the United States Department of Housing & Urban Development.

SECTION F

CONFLICT OF INTEREST

Federal regulations (24 CFR 570.611) and Minnesota Statutes 471.87-471.88 specify that elected officials, employees of Small Cities Development Program grant recipients, and others who are in a position to participate in the decision-making process of the Program may not:

1. Obtain personal or financial interest or benefits, including money, favors, gratuities, entertainment or anything of value that might be interpreted as conflict of interest.
2. Obtain a direct or indirect interest in any contract, subcontract, or agreement for any activity. This prohibition extends to contracts in which a spouse, minor child, or business associate may have personal or financial interest.

Questions concerning conflict of interest shall be resolved by a written legal opinion from the City Attorney who shall, if necessary, seek further assistance from the Minnesota Attorney General's Office. Small Cities Development Program staff shall be contacted if such a situation arises.

SECTION G

EVIDENCE OF MISCONDUCT

Any party participating in the Program shall refer any evidence of fraud, misrepresentation, or other misconduct in connection with the operation of the Program to the Minnesota Attorney General's Office for appropriate investigation and legal action.

SECTION H

PARTICIPATING FINANCING SOURCES

Each Financing Source (Small Cities Development Grant, the City of Mankato, bank, other lender, etc.) shall provide its rehabilitation assistance according to its own rules, regulations, requirements, and procedures. This shall apply to applicant eligibility, the type of repairs which can be made, and loan repayment requirements. Each Financing Source shall maintain its own fiscal systems. No funds from one Financing Source shall be co-mingled with funds from any other Financing Source. Where needed or desired, the services of the Rehabilitation Advisor shall be made available to the other Financing Sources.

SECTION I

ELIGIBLE PROPERTIES TO BE REHABILITATED

I.1 — Type of Ownership.

1. An owner/occupant applicant for commercial rehabilitation must possess at least a one-third interest in one of the following types of ownership in the property to be rehabilitated:
 - A fee title, or
 - A life estate, or
 - A fee title or life estate subject to a mortgage or other lien securing a debt, or,
 - A mutually binding contract for deed, where the borrower is rightfully in possession and the purchase price is payable in installments. In the event that a contract for deed arrangement is present, the City Attorney shall be consulted to determine: (a) if the contract vendee's participation in the commercial rehabilitation program is compatible with the terms of the contract for deed, (b) if permission from the contract vendor is needed before undertaking rehab, and (c) if the contract vendor needs to be a party to the rehab mortgage/repayment agreement.
2. As regards a renter/occupant Applicant:
 - The renter/occupant must be the renter of a building used for commercial purposes.
 - The length of the lease on the property and security for Program assistance will be reviewed on a case-by-case basis. Assistance may be denied if the lease is of such a short term as to: (1) question the viability of the business, and/or (2) risk vacancy in the immediate future.
 - The property owner must join in the application and must co-sign all documents securing financial assistance from the Program.
 - Renter/occupants shall be provided with the appropriate anti-displacement notices and shall be protected for displacement due to the building owner's participation in the rehabilitation Program.

I.2 — Suitable for Rehabilitation.

1. A determination of the structural suitability of a commercial building for rehabilitation shall be made by the Rehabilitation Advisor, based on the "Mankato Commercial Rehabilitation Building Standards." Poor-and Very Poor-condition structures (described below) shall be considered to

be substandard, based upon the following criteria and individual inspections by the Rehabilitation Specialist.

- Poor Condition: No major structural defects. However, the structure has more than one sign of major exterior deterioration.
 - Very Poor Condition: Structure has either: (a) No more than one structural defect and more than one sign of major exterior deterioration; or, (b) More than one structural defect.
2. Poor- and Very Poor-condition buildings may be suitable for rehabilitation when:
- The building is still structurally sound on an overall basis. The building should be vertically plumb within three degrees and shall have no significant rot on the majority of the floor joists, studs, or rafters that are weight-bearing. Foundations and basement walls shall not be deteriorated to the extent, or so far out of alignment, that they do not adequately support the building and cannot be corrected without complete replacement.
 - The benchmark amount of funding for rehabilitation is the average for rehabilitation projects established in the Small Cities Development Program (SCDP) grant application. The use of SCDP funds shall not exceed the amount the additional funds must come from other sources, including from the property owner.
 - The total cost of the rehabilitation shall not exceed seventh-five (75) percent of the structure's replacement cost.

I.3 — Not Suitable for Rehabilitation.

1. Some commercial buildings may be in good condition and will not need rehabilitation assistance. Although an Applicant may be otherwise eligible for assistance, the Program will not assist any buildings which are not in need of significant repairs. Following a detailed inspection of the property, the Rehabilitation Advisor shall make a determination of the structural suitability of a building for rehabilitation, on the basis of provisions noted in Section I.2, above. The Rehabilitation Advisor shall have authority to determine whether a commercial building is not in need of repair. If a building is determined to be in structurally good condition, it shall be excluded from participation in the Program, based upon the following criteria:
 - Good Condition: Structure is less than 10 years old, or there are no indications of exterior deterioration, or energy efficiency measures were incorporated in the original construction.
 - Fair Condition: Structure displays some exterior deterioration, but of minimal severity. Energy efficiency improvements may be required to comply with standards. Shall only be considered as budgets may allow and only after substantial progress has been made toward meeting higher-priority improvements for "poor" quality buildings.
2. Some buildings may have deteriorated to a point where rehabilitation is structurally not feasible. Following a detailed inspection of the property by the Rehabilitation Advisor as described above, the Advisor shall have authority to determine whether a commercial building is not feasible for repair. If a building is determined to be structurally "beyond hope" of repair, it shall be excluded from participation in the Program, based upon the following criteria:

- Beyond Repair Condition: Structure has more than one structural defect and indications of extensive major exterior deterioration.

I.4. — Property Tax Delinquency.

No commercial building shall receive rehabilitation assistance if property taxes are delinquent and unpaid. Applicants may apply for the program and have their eligibility determined, but no rehabilitation work shall be placed under contract unless property taxes are paid in full as of the most recent tax period.

I.5 — Default, Bankruptcy, Judgments.

No commercial building shall receive assistance if: (1) the owner is in default of a mortgage, contract for deed, or comparable obligation; (2) the owner is currently engaged in bankruptcy proceedings; or (3) there are unpaid or pending court judgments filed against the property or the owner.

I.6 — Commercial Rehabilitation Slum & Blight Conditions

1. Activities undertaken must support the federal objective of aiding in the prevention or elimination of slum and blight conditions, as set forth in 24 CFR 570.208(b), and further defined in the City of Mankato's "Determination of Blighting Conditions" resolution.
2. Repaired properties must be identified as substandard and repairs must be necessary for elimination of the substandard conditions, consistent with the provisions of the City of Mankato's "Commercial Rehabilitation Building Standards."

I.7 — Mixed-Use Buildings.

A mixed-use building that is partially utilized for commercial purposes and partially utilized for residential purposes may be assisted by the Commercial Rehabilitation Program. However, those improvements that benefit only the commercial portion of the building must be paid for with commercial rehabilitation Program funds. Similarly, improvements that benefit the residential portion of a mixed-use building must be paid for with the City's separate housing or rental rehabilitation program funds. In the event a mixed-use building is proposed for rehabilitation, the Administrator shall seek such additional guidance as may be necessary from the Minnesota Department of Trade & Economic Development.

I.8 — Vacant Buildings.

Vacant commercial buildings shall generally not be eligible for rehabilitation with SCDP funds. Exceptions to this rule may be granted only if repairs are necessary to allow a bona fide start-up business to begin full-time operations within three months of the date of completing the repairs. In such cases, this three-month provision shall be condition of securing financial assistance from the Program and the violation of or failure to fulfill this condition shall make all commercial Deferred Loan and Repayable Loan financing immediately due and payable.

I.9 — Other Ineligible Buildings.

Only permanent structures shall be assisted. The following are not eligible for assistance:

- Temporary or movable structures or out-buildings.
- Satellite buildings used primarily for storage.
- Secondary commercial buildings which serve only to complement the primary facilities constituting the applicant's principal place of business.
- Detached garages or garage door openers.
- Other structures which do not meet the test of a principal place of business
- Exceptions for secondary commercial buildings may be granted only when these conditions are met: (1) the applicant utilizes more than one building, each of which could be structurally considered suitable as a separate principal place of business, (2) the secondary building demonstrates greater need for repair than the applicant's primary building, and (3) the secondary building is not ineligible on the basis of other requirements or limitations of the Program.

I.10 — Priority of Applicants Receiving Rehabilitation Assistance.

1. Applications for commercial rehabilitation shall be accepted at any time during the lifetime of the program, or until that point where all available funds are committed to rehabilitation projects. Applicants who qualify for housing rehabilitation assistance shall be processed and inspected on a "first-come, first-served" basis.
2. Several factors may affect the order or sequence by which Applicants may receive rehabilitation assistance. Furthermore, assistance may become unavailable for certain Applicants who may therefore be unserved by the Program. Applicants shall be notified that the availability of rehab assistance depends upon:
 - A detailed inspection of the house.
 - The types of repairs which are needed and allowable under the program's guidelines.
 - The cost of the repairs, based on bids.
 - The financial and structural feasibility of undertaking a repair job for the building.
 - The Applicant's own initiative and diligence. In this regard, the document by which the Applicant shall be given the opportunity to accept or reject their offer for rehabilitation assistance (see Section K.5) shall contain the following acknowledgment:

"I understand that: (a) the grant program serves applicants on a first-come first-served basis, (b) once the bid documents for my building are prepared and turned over to me, it becomes my responsibility to contact contractors and obtain the necessary bids, (c) projects which have all the necessary bids turned in ahead of other projects are placed under contract sooner and move forward on that basis, and (d) because the program operates on a first-come first served basis, it is possible that the grant money may run out before all my bids are received and before I make a decision to move forward and that, in that case, I will not receive any rehabilitation assistance."

SECTION J

SCOPE AND NATURE OF REHABILITATION REPAIRS

J.1 — Maximum Financing.

Commercial property owners are eligible for a deferred loan of up to 50% of the total project costs with a maximum of deferred loan amount of \$25,000. The property owner must finance the additional project costs.

J.2 — Levels & Mix of Small Cities Development Program (SCDP) Financing.

1. **Leverage Requirement:** Applicants will be required to provide a minimum of 50% of the project costs. Applicants qualifying for other deferred loans or grants shall utilize these funds to the maximum. The property's income from rental units must show a positive cash flow and an ability to service any leveraged loans for the rehabilitation.
2. **Leverage Sources:** Leverage funds shall be any funds used to provide for rehabilitation activities performed at an eligible applicant's property other than the funds provided by the Small Cities Development Program. Leverage sources will be determined by owner's debt and debt carrying capacity, owner's credit worthiness and property eligibility. Leverage will be based on the owner's income and ability to meet the debt service requirements of any loan and the funding source limitations. Staff works to assist clients in obtaining the best leverage source available.
3. **Mankato RLF Leverage Fund:** The City of Mankato will provide funds from the "Neighborhood Improvement Fund" for the purpose of assisting applicants. These funds will be provided as Low Interest Loans.
4. **The Mankato RLF Low Interest Loans:** Applicants are required to provide 50% of the project costs and shall be eligible for a 3% interest loan with a 10 year term not to exceed 15% of the total rehab expenses of \$3,000, whichever is less, with the first payment due sixty (60) days following completion of the rehabilitation project. This source shall be considered as a portion of the required 50% match. An applicant shall be responsible for securing the balance of the necessary amount from personal funds or other lending sources.

J.3 --- Leverage Sources and Types

1. **Deferred Loans and Grants.** These will be provided by the following programs and sources: the Minnesota Housing Finance Agency, Department of Trade and Economic Development, D.O.E. Weatherization, Energy Assistance Repair Program Grant/Loan, and where applicable, client contributions.
2. **Subsidized and Unsubsidized Loans.** These loans will be provided by the following programs and sources: the City of Mankato, Minnesota Housing Finance Agency's, Department of Trade and Economic Development, Local Bank Loans, and where applicable, client contributions.
3. **The Program Administrator** will supply specifications and bidding documents or any other documentation required by the funding source. The Program Administrator will also coordinate contractor activities and payments with the other agency.
4. **When an applicant does secure funds from a lending institution,** the Program Administrator will provide specifications, bidding documents, warranties or any other documentation required by the lending institution before loan closing. However, before any proceed to work is sent to a contractor, the loan proceeds must be placed in an escrow account established by the property

owner and require the lending institution's authorization before any funds can be dispersed or a check payable to the homeowner and contractor for the loan amount shall be delivered to the project director for disbursement when payment is due. This is will be triggered by a completion certificate signed by the owner, contractor and the grant administrator's representative.

5. In some cases, owners may wish to use liquid assets for leverage funds. When this occurs, owners will be required to place the funds in an escrow account before any proceed to work is sent to a contractor. These funds deposited in an escrow account and can be released only by the project administrator and the owner only after the owner has signed a completion certificate.
6. Loan proceeds will be held in escrow accounts from all sources, except where prohibited by other lending sources, until the improvement has been completed to the satisfaction of the applicant and the Rehabilitation Advisor. The escrow will be held in a special account labeled as "leverage funds" and cannot be released until the applicant has signed a completion certificate indicating that they are releasing the funds to the contractor.

J.4 — Final Condition.

Upon completion of work and final inspection, all commercial buildings assisted under the Program shall meet or exceed the local building rehabilitation standards, including provisions of the City of Mankato "Commercial Rehabilitation Building Standards" and the City's "Urban Design Standards."

J.5 — Eligible Commercial Rehabilitation Improvements.

1. Each commercial rehabilitation improvement must support these two criteria:"
 - Upon completion of repairs, the building will have a remaining useful life such that the amount of funds invested in the structure may be amortized over its remaining useful life in an economically prudent manner.
 - Upon completion of repairs, the building will be safe, functional, and usable.
2. Each commercial rehabilitation improvements must be physically attached to the property and must be a permanent general improvement. Such improvements shall include alteration, renovation, or repairs which correct defects and deficiencies which directly affect the safety, habitability, energy consumption, or esthetics of the property. For the purposes of commercial rehabilitation assistance under the Small Cities Development Program, only the following types of improvement addressing the definition of "slum and blight" are eligible:
 - Correction of code violation, and,
 - Exterior improvements
 - Energy related improvements
 - Accessibility improvements
 - Roof repairs will be eligible activity when incorporated with other exterior improvements. Roof repairs using SCDP funds will be treated as a low priority.

J.6 — Ineligible Commercial Rehabilitation Improvements.

The following improvements are not eligible for financing with SCDP funds:

- Repairs which do not correct code violations, do not constitute exterior improvements, or are not energy related or accessibility improvements.
- New construction or additions to buildings.
- Improvements which are limited solely to roof repairs
- The payment, in whole or in part, of assessments for public improvements

J.7 — Ineligible Improvements Allowable with Other Funds.

The Applicant may use bank loans, his/her own funds on hand, and other funds in order to finance those improvements which are not allowed with SCDP funds.

J.8 — Labor Standards

All commercial rehabilitation projects with a total cost in excess of \$2,000 must comply with federal labor standards requirements, including the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Federal Fair Labor Standards Act.

SECTION K

PROGRAM ADMINISTRATION

The following administrative procedures shall govern operation of the Commercial Rehabilitation Program, unless otherwise provided for by the procedures of another participating Financing Source.

K.1 — Implementation Responsibilities.

1. As regards the Administrator, the Administrator shall:

- Coordinate all rehabilitation work delivered through the various Financing Sources.
- Collect and process applications and approve applicants as being eligible for rehabilitation assistance.
- Obtain clearance from the Minnesota Historical Society regarding historic preservation requirements before rehabilitation work begins.
- Administer all other phases of the commercial rehab effort, including the procedures and steps listed below.
- Review all applications for consistency with these policies and approve or deny individual projects. An applicant may appeal any decision as provided for in Section N. The Administrator will use the following guide to access the preliminary eligibility of the applicant.
 - a. Whether or not the applicant is eligible for a SCDP loan and what leverage package the applicants are eligible for.
 - b. Location of the applicant's property in the Target Area.
 - c. Property ownership.

The Administrator shall provide regular reports to the City Council and Housing and Economic Development Authority (EDA) on the program status, but Council approval of individual projects is not required,

2. With regard to Marketing, the Administrator shall:

Conduct outreach and will solicit applications for the program in the following ways:

- a. Notify all applicants on the Mankato 2002 SCDP list of property owners who participated in the preparation of the SCDP Application.
- b. Issue press releases advertising community meetings on SCDP grant application both to local newspapers and to the local broadcast media.
- c. Make direct mailings of program information to owners in the target area if necessary to generate additional applicants.
- d. Develop brochures and send them out in the billing statements of our local utility vendors.
- e. Develop posters and post them in prominent areas in the community.

3. With regard to the Mankato City Council:

- The City Council shall be responsible for setting overall program policy, including approval, amendment, and adoption of these Guidelines.
- All checks issued under the SCDP program shall be issued by the City.

K.2 — Applications.

Applicants shall complete the "Application for Rehabilitation Assistance." This form shall request applicable information and further provide a "Notice to Applicant" informing the applicant of data privacy, misrepresentation, inspection considerations and other matters.

K.3. --- Verifications

All applicable information which is relevant to the Applicant's eligibility shall be independently verified. The Administrator shall, with written permission of the Applicant, obtain verification from the appropriate sources and shall use the verified information to determine an applicant's eligibility for rehabilitation assistance.

K.4 — Displacement.

The Administrator shall work with the Applicant to determine if the possibility exists of displacement from the building. If the potential for displacement appears likely, the Administrator shall provide to the Applicant such written notices as are required. If displacement shall occur, the Administrator shall work with the Applicant to assure that the Applicant's displacement and relocation rights are protected.

K.5 — Notification of Status.

The Administrator shall notify the Applicant in writing as to the approval or rejection of their application and, if approved, the maximum amount of assistance for which they qualify.

K.6 — Authorization for Initial Inspection.

The Rehabilitation Advisor shall conduct an initial inspection. This inspection shall be thorough, complete, and shall identify all rehabilitation needs of the commercial building.

K.7 — Work Write-Up and Bid Specifications.

Following initial inspection, the Rehabilitation Advisor shall prepare a written work write-up for the commercial building. This work write-up shall specify reasonable, workmanlike means by which rehabilitation needs are to be corrected and the structure brought up to the standards set forth in the City's "Commercial Rehabilitation Building Standards;" shall suggest materials and methods for making necessary repairs and improvements; and shall be prepared in sufficient detail so as to allow contractors to base their bids upon. Drawings and sketches shall be provided where they will be necessary or helpful. Applicants may wish to use architectural services, not provided by the Administrator, in developing their scope of work. The Rehabilitation Advisor will incorporate these architectural documents into the bid documents if desired. Costs for architectural services are the applicant's responsibility and may count towards the private match requirements.

K.8 — Bidding and Contracting Procedures.

1. After receiving the Rehabilitation Advisor's work write-up, the Applicant shall solicit bids from contractors. A minimum of two bids per trade shall be required. All bids will be reviewed by the Rehabilitation Advisor to determine that the bids are comparable. In seeking the minimum of two bids, one general contract bid can be compared against the sum of individual bids by trade. One bid can be accepted if no other bids can be obtained and the bid amount is consistent with this Rehabilitation Advisor cost estimate.
2. The Administrator shall provide to the Applicant a Bidders List of Contractors. The Applicant will be requested to seek sealed bids from this list. No contracts will be awarded to contractors who are not on this Bidders List. The list will, however, be continually updated as more contractors come forward and qualify for the list. If the Applicant obtains bids from a contractor who is not currently on the Bidders List, the bid will be considered at such time as the contractor qualifies for the List.
3. Bids will be awarded to the lowest qualified bidder unless one of the following occurs:
 - The bid is found to be unrealistically low and the contractor agrees to withdraw the bid.
 - The contractor has failed to follow the procedures outlined in instructions to the bidders.
 - The Applicant does not want the lowest bidder to do the work. In that case, the Applicant must pay 100% of the difference between the lowest bid and the preferred contractor's bid.
 - There appears to have been collusion between two or more contractors and/or the Applicant. Collusion among contractors will result in their being barred from further participation in the Program. Collusion involving the Applicant will result in the rehab project being canceled and the Applicant being barred from the Program.
 - The contractor fails to bid according to specifications and, following efforts by the Rehabilitation Advisor, it is impossible to compare that contractor's bid with those of the other bidders.

4. Contracts may be made with general contractors or individually by trade. Contracts will be let by the Applicant with a Proceed to Work Order issued by the Administrator, and shall be a contract between the Applicant and the contractor. Prior to initiating work, the contractor shall attend a Preconstruction Conference with the Administrator and the property owner, to review the project and discuss various compliance issues.
5. Any repair work which begins before a written Proceed to Work Order is issued will not be paid for by funds from any Financing Source.
6. Projects not under contract within eight months after the date when bids are delivered to the Applicant shall be dropped from the program.

K.9 — Qualification for Bidders List.

1. Contractors must complete the "Contractor's Qualification Statement" and return it to the Administrator.
2. Contractors must be bona fide tradesmen. Contractors must meet State licensing requirements where such requirements apply.
3. Contractors must possess insurance coverage which meets or exceeds these requirements:
 - Manufacturers and Contractor/Independent Contractors. Bodily Injury: \$300,000 (each occurrence) and \$300,000 aggregate. Property Damage: \$100,000 (each occurrence).
 - Auto (Owned, Hired, or Leased). Bodily Injury: \$100,000 (each occurrence) and \$300,000 aggregate. Property Damage: \$100,000 (each occurrence).
 - Worker's Compensation. The contractor shall obtain and maintain Worker's Compensation insurance for all of his/her employees, according to State law and regulation.
4. In cases where any work is sublet, the Contractor shall also require the subcontractors to comply with the insurance requirements set forth above.
5. Contractors may be removed from the Bidders List and disqualified from contracting under the following circumstances: Failure to keep the required insurance in force; Failure to complete work in a timely manner; Performance of substandard work; Failure to correct deficiencies in substandard work; or Collusion between two or more contractors and/or the Applicant.

K.10 — Change Orders.

Work which is not specified in the Work Write-Up will not be paid for by the Program without a written change order approved by the Administrator, the Rehabilitation Advisor, the contractor, and the Applicant. Change Orders which increase costs of a project beyond the maximum deferred loan eligibility and the amount shall be paid by the Applicant.

K.11 — Interim Inspections.

The Rehabilitation Advisor may conduct interim or progress inspections for each commercial building assisted by the Program. The interim inspections shall be used: To monitor the work in

progress and the quality of work being performed, and to determine the completeness and quality of repairs prior to any payments to contractors or subcontractors.

K.12 — Partial Payments to Contractors.

No interim or partial payments will be made without prior inspection by the Rehabilitation Advisor and approval by the Administrator. No partial payment or sum total of partial payments shall exceed 80% of the total contract amount. No pre-payment or advance of Program funds is allowed.

K.13 — Final Inspection and Acceptance of Work.

The Rehabilitation Advisor shall conduct a comprehensive final inspection of all repairs upon completion of all work. This final inspection shall be used to determine the completeness and quality of repairs prior to the final payment to contractors or subcontractors. Substandard or incomplete work identified by the Rehabilitation Advisor will not be paid for. Prior to payment, a "Completion Certificate and Acceptance of Work" form shall evidence satisfaction with the work and shall be signed by the Applicant, the contractor and/or subcontractor, the Rehabilitation Advisor and the Administrator.

K.14 — Payment and Lien Waivers.

SCDP funds shall be disbursed to the contractor upon approval and acceptance of the work as noted in Section K.12. Appropriate lien waivers must be provided by the contractor prior to the release of checks.

K.15 — Time for Completion.

1. A maximum of 90 calendar days will be allowed for completion of contracted work on a commercial building, beginning as of the date of the contract for the repairs, or as of the date proposed by the contractor (when provided). Failure to begin work by the completion date shall be grounds for termination of the contract.
6. This time period shall not be exceeded except by a written Change Order, which shall outline the circumstances which require an extension of time and shall specify a revised completion date. In the absence of such a Change Order, failure to complete work on time shall be grounds for termination of the contract.

K.16 — Termination of Contract.

Rehabilitation contracts may be terminated for convenience or for cause. The provisions contained in Section K.15 shall be a basis for termination for cause.

K.17 — Permits and Fees.

Payment of local building permit fees will be the responsibility of the Contractor. State inspection fees should be included in the contractor's bid.

K.18 — Appeals Procedure and Resolution of Disputes.

1. All Applicants and contractors shall have full right to appeal any decision or action relating to the administration of the Program. Such appeals shall be made in accordance with SECTION N.
2. In the event of a dispute between the Applicant and the contractor, the Rehabilitation Advisor shall work with both parties to negotiate a satisfactory solution, the dispute shall be presented to the City Council by the Administrator. In the event that the City Council is unable to resolve the dispute, judicial arbitration procedures shall be followed.

K.19 — Close-Out.

Upon completion of all rehab activities and acceptance of the work by all parties, the Administrator shall process such close-out documents as are required for the SCDP financing, including repayment agreements.

SECTION L

OTHER PROGRAM PROVISIONS

L.1 — Refinancing and Work In Progress.

No funds from this Program shall be used to refinance existing indebtedness. No funds shall be used to pay for any repairs or improvements which may be in progress or may have begun prior to the Administrator issuing a written Proceed to Work Order.

L.2 — Applicant Labor.

An Applicant will be allowed to provide the labor for their own rehabilitation project and do the repair work on their own, provided that:

- A minimum of two sealed bids are obtained on the materials to be used.
- Donated labor reduces the total cost of a project. The value of donated labor will be subtracted from the cost of a project. Labor provided by employees of the property owner will also be subject to the Davis/Bacon Labor Standards even though the employees are employed by the property owner. All required weekly payroll reports shall also be completed by the property owner.
- The Rehabilitation Advisor agrees that the Applicant demonstrates sufficient skill and ability to perform the rehab work.
- The Applicant agrees to close monitoring of the work by the Rehabilitation Advisor.

L.3 — Fees to the Applicant.

Neither the Administrator nor the City of Mankato shall charge to the Applicant an origination fee, inspection fee, or fee of any kind, other than building permit fees noted in Section K.17.

L.4 — Contractor's Warranty.

1. The Contractor shall defend, indemnify, and hold harmless the Applicant, Administrator, Rehabilitation Advisor, the City of Mankato and its officers, and the officers of any other Financing Source from all liability and claims for damages arising from bodily injury, death,

property damage, sickness, disease, or loss and expense resulting from or alleged to result from a Contractor's operations under this Program.

2. The Contractor shall warrant to the Applicant and subsequent owners of the property that:

- All materials, hardware, fixtures, and utilities of whatever kind used in making repairs are of good quality and free from defects in workmanship or material.
- The Contractor shall repair, correct, or replace at no cost to the Applicant or subsequent owners any defective workmanship or materials or deficiencies subject to warranty, upon written notice within two years from the date of completion and acceptance of work.

SECTION M

PROGRAM INCOME & REVOLVING LOAN FUND

M.1 --- Program Income

Program income may be generated from commercial rehabilitation through the repayment agreements. The agreements will stipulate that if an applicant sells the structure at anytime after receiving a rehabilitation deferred loan, he/she/they must repay all of the deferred amount.

Program income generated in this manner will be dedicated to a revolving loan fund set up by Mankato. Any SCDP funds received during the program years would be utilized immediately for rehabilitation activities and would only go to the City's revolving loan fund after program close-out. This account is used solely for assisting eligible projects with improvements when there is a gap not covered by other funds. This recapture and reuse of funds are consistent with the rehabilitation activities approved as part of the 2002 SCDP application and will provide an on-going impact on building conditions in Mankato.

M.2 --- Revolving Loan Fund

Pursuant to the terms of the City's SCDP application and Grant Agreement, a revolving rehabilitation loan fund shall be established. This fund shall collect any repayments of SCDP monies. Such repayments shall be used for additional rehabilitation work at such time as they have sufficiently accumulated following close-out of the original SCDP grant. The revolving loan funds will be held in a separate account and will be made available to Applicants in the City of Mankato which have a need for, and which qualify for, rehabilitation assistance. Use of the revolving funds will be consistent with these guidelines.

The Revolving Loan Fund shall give priority to those structures which were not previously assisted by the Program. The Revolving Loan Fund shall not be available for repeated use by an Applicant for making additional repairs to the same structure. Any structure assisted by the Small Cities Development Grant prior to its close-out shall not be eligible for assistance by the Revolving Loan Fund, unless specifically authorized by the City Council.

The Revolving Loan Fund will be accounted for by establishing a separate group of electronic journal and ledger accounts, including a cash account and a program income account.

Procedures included in the financial management of the Revolving Loan Fund include: a recipient loan register account to record the name of the recipient (borrower), the amount of the loan, the date approved, the terms of the loan, payments, and current balances; assurances that all funds received shall be accurately classified and coded to the accounts to be credited;

and, assurances that funds are immediately deposited into the proper bank account. Prior to close-out of the grant, the above tasks shall be the responsibility of the Administrator. After close-out, the City may, at its own discretion, choose an institution to service the loans or it may service the loans itself.

SECTION N

COMPLAINTS AND APPEALS

N.1 --- Client Complaint Process

1. Initial client complaints about any aspect of: the EDA's service delivery; the EDA's staff; Program restrictions; or contractor relations/workmanship, may be pursued verbally or in writing to the City's Housing and Economic Development Coordinator and shall be responded to by either the Housing Rehabilitation Advisor who shall work with the staff, the contractor, and the client to resolve the problem within two (2) weeks. If the applicant is still dissatisfied, the client may further pursue the complaint as follows:
 - a. A complaint may be filed with the City Manager who shall provide a response within two weeks
 - b. If the Client is still dissatisfied, they may be asked to be placed on the next regular agenda of the City Council for action at its next regularly scheduled meeting.
 - c. If the client is still unsatisfied, the complaint will be forwarded to the MN Department of Trade and Economic Development along with the following information:
 - 1) A copy of the written complaint and request for satisfaction under the appeals process.
 - 2) A copy of all correspondence between the Administrator and the appealing client concerning the appeal disposition.
 - 3) The final appeal disposition.

N.2 --- Project Appeal Process

1. If an applicant's application for any reason is denied or an applicant is dissatisfied with the level of assistance they have received, the following procedure is to allow for a standardized appeal/complaint process to all applicants of the Mankato 2002 Small Cities Development Program. Upon complaint, an applicant will be informed of the following procedure:
 - a. That a written procedure for appeal is available.
 - b. In the case of denial of assistance or service, a written notice shall be sent to the applicant clearly stating under what condition that application was denied and also a copy of this appeal process.
 - c. Initial client appeals about any aspect of service delivery expressed verbally or in writing shall be responded to within two (2) weeks. If the applicant is dissatisfied with the response, then the client shall be informed of the following procedure.
 - d. All appeals should be addressed to:
Housing & Economic Development Coordinator
Community Development Division - City of Mankato
PO Box 3368
Mankato, Minnesota 56002-3368
Attention: SCDP Appeal

- e. The applicant who wishes to appeal the initial response must submit a request for appeal in writing within thirty (30) days of the initial response. This request must state the reason(s) for the appeal and should include any information that the applicant feels is pertinent to the appeal.
- f. The applicant may appeal to the City Manager within fifteen (15) working days. At that time, the applicant will be notified that he/she has the right to appeal to the City Manager. The Manager will respond with a written decision within fifteen (15) working days.
- g. The applicant may appeal to the City Council within fifteen (15) working days following the Manager's decision. At that time, the applicant will be notified that he/she has the right to appeal before the City Council. The Mankato Council will respond with a written decision, *which shall be final*, within thirty (30) working days.
- h. Any further appeal actions will be forwarded to the MN Department of Trade and Economic Development, along with the following information:
 - 1) A copy of the written complaint and request for satisfaction under the appeals process.
 - 2) A copy of all correspondence between the Administrator and the appealing client concerning the appeal disposition.
 - 3) The final appeal disposition.

SECTION O

AMENDMENTS / APPROVAL

O.1 --- Amendments

These procedural guidelines may be amended or supplemented from time to time by the City of Mankato by issuance of revised pages to be effective on the date of issue subject to approval by DTED

O.2 --- EDA Approval

Upon a motion made and seconded, the "Guidelines & Policies " for the Mankato 2002 SCDP Commercial Rehabilitation Program are hereby approved and adopted, subject to any changes recommended by the Minnesota Department of Trade & Economic Development in their capacity as funding agency for the Small Cities Development Grant Program.

Adopted by the Economic Development Authority of the City of Mankato on the 10 day of September, 2002.

Signed:

Witnessed:



Chairperson



City Manager